

DEPARTMENT OF THE ARMY
HEADQUARTERS, JOINT READINESS
TRAINING CENTER AND FORT POLK
2 June 2020
JRTC and FORT POLK SUPP to Interim AR 27-10*

02 JUN 2020

Legal Services
MILITARY JUSTICE

History. This is a major revision.

Summary. This regulation supplements the Enclosure to Army Directive 2018-28, (Interim Army Regulation (AR) 27-10, Military Justice, dated 1 January 2019), to furnish guidance and establish responsibilities for the administration of military justice within the general court-martial jurisdiction of the Commander, Joint Readiness Training Center (JRTC) and Fort Polk and its subordinate commands.

Applicability. This regulation applies to all organizations, units, detachments, and personnel assigned or attached to JRTC and Fort Polk for Uniform Code of Military Justice (UCMJ) jurisdiction and administrative actions.

Proponent and Exception Authority. The Staff Judge Advocate (SJA) is the proponent of this supplement. All requests for exceptions or waivers to this publication will be staffed through the SJA to the Commander, JRTC and Fort Polk.

Supplementation. Further supplementation of this regulation by subordinate commanders is prohibited, unless expressly stated.

Suggested Improvements. Users are invited to send comments and suggest improvements on a Department of the Army (DA) Form 2028 (Recommended Changes to Publications and Blank Forms) to: Staff Judge Advocate AFZX-JA, Building 1454, 7090 Alabama Avenue, Fort Polk, Louisiana 71459.



PATRICK D. FRANK
Brigadier General, USA
Commanding

*This publication supersedes JRTC and Fort Polk Supplement to Interim AR 27-10, dated 1 January 2019. It also supersedes any previous amendments to that publication. These changes remain in effect until rescinded or further modified. In accordance with Interim AR 27-10, the Criminal Law Division of the Office of the Judge Advocate General of the U.S. Army has reviewed this supplement.

Interim AR 27-10, dated 1 January 2019, is supplemented, as follows:

Page 1, Paragraph 1-1. Purpose. Add the following.

The policies and limitations herein are not intended to impose jurisdictional requirements or procedural pre-requisites on courts-martial or nonjudicial punishment proceedings. Failure to comply with this regulation does not affect the validity of any action or confer rights upon any accused. In the event that AR 27-10 is superseded or any provision of this regulation is rendered inoperable by regulation or law, unaffected parts of the document will remain in effect. The provisions of this supplement shall continue to remain applicable despite changes in page and paragraph numbers in this basic regulation.

Page 1, Paragraph 1- 4. Responsibilities. Add subparagraph d.

d. The JRTC and Fort Polk SJA has primary responsibility for the assignment, MOS-training, operational control, technical supervision, management, education, professional development, and proper utilization of all legal personnel assigned to JRTC and Fort Polk pursuant to AR 27-1, paragraph 4-3. This applies to all judge advocates (27A), legal administrators (270A), paralegal specialists and noncommissioned officers (27D), court reporters (27DC5), civilian attorneys, civilian paralegals, and paralegal assistants within JRTC and Fort Polk, regardless of their unit of assignment. The following limitations apply to the assignment, location, and evaluation of legal personnel within JRTC and Fort Polk.

(1) Units will not fill vacant 27 series MTOE or TDA positions with non-27 series personnel.

(2) Paralegal specialists/NCOs, court reporters, legal administrators, and judge advocates will not be assigned regular duties inconsistent with their MOS when such duties will delay the processing of legal actions or create a potential conflict of interest with their legal duties. Commanders will exempt from unit detail and duty rosters all assigned paralegal specialists/NCOs, court reporters, legal administrators, and judge advocates because of the potential conflict these details create. Battalion paralegal specialists/NCOs will be assigned to their respective Battalions and attached to the Brigade Headquarters or the Office of the Staff Judge Advocate (OSJA) Military Justice section in a consolidated office(s) for all functions, to include, but not limited to, physical training, daily duties, and administrative and UCMJ purposes.

(3) In garrison, paralegal NCOs, will be rated by the Military Justice NCOIC and senior rated by the Chief, Military Justice (CoJ). At the brigade, whenever possible, paralegal NCOs will be rated by the Brigade Senior Paralegal NCOIC and senior rated by the Brigade Judge Advocate (BJA), IAW AR 623-3, paragraphs 2-5 and 2-7. The Brigade Senior Paralegal NCOIC, whenever possible, will be rated by the BJA and senior rated by the Brigade Executive Officer or Deputy Commander. These rating chains may be adjusted based on individual unit demands with the SJA's concurrence. The JRTC and Fort Polk Command Paralegal NCO will review all NCOERs for

paralegal NCOs prior to final signatures. The NCOIC, Military Justice, OSJA, JRTC and Fort Polk will provide technical supervision and training to the Brigade paralegals and paralegal NCOs.

(4) The primary place of duty for rear detachment legal personnel will be determined by the SJA so as to ensure proper oversight of personnel and legal actions. Leaves and passes will be coordinated with the OSJA prior to approval by the rear detachment.

(5) The BJA is assigned to the Brigade and is a member of the Brigade Commander's personal and special staff, with a direct line of communication to the commander. The SJA will provide technical guidance to the BJA. However, the Brigade Commander will dictate the BJA's routine and determine the BJA's day-to-day duties. The BJA will, whenever possible, be rated by the SJA and senior rated by the Brigade Commander in accordance with **The Judge Advocate General (TJAG) Policy Memorandum 17-07**.

(6) In order to foster effective training and ensure consistency in the quality of legal services delivered, the primary place of duty for Brigade Trial Counsel (TC) will be at the OSJA military justice section in accordance with **TJAG Policy Memorandum 17-07**. The routine day-to-day duties of the TC will be supervised by the CoJ and Senior Trial Counsel (STC). A TC's primary duty is the administration of military justice matters for the Brigade. Trial Counsel will participate, to the fullest extent possible, consistent with their military justice responsibilities, in all scheduled Brigade training (e.g. daily PT, field exercises) and operational missions. The TC will normally be rated by the BJA, intermediate rated by the Brigade Executive Officer, and senior rated by the SJA, with evaluation input from the CoJ, in accordance with **TJAG Policy Memorandum 17-07**.

(7) Generally, a third judge advocate is assigned the Brigade Combat Team (BCT) to serve as a National Security Law attorney (NSL) in accordance with **TJAG Policy Memorandum 17-07**, and at the discretion of the SJA. The attorney will not perform any military justice duties or other duties associated with adverse administrative actions that are performed by the TC, to include serving as a recorder for an administrative separation board, without the express permission of the CoJ or SJA. The NSL attorney will be supervised by the BJA, or as the SJA directs. The SJA will determine the primary place of duty for each NSL attorney based on the training and experience of that specific JA. The NSL attorney's rating chain should mirror that of the TC, with the exception of evaluation input from the CoJ.

(8) The senior OPLAW Observer Controller Trainer (OCT), the OPLAW OCT, and the OPLAW Planner are not in the SJA's rating scheme. Nonetheless, as the senior legal advisor in this GCMCA, the SJA has a responsibility to coach, mentor, and train these judge advocates. As such, these judge advocates may be tasked to perform ancillary legal duties, to include, but not limited to the appointment as Magistrates, and Article 32 Preliminary Hearing Officers. Their rotational training duties will be

considered before any tasking, but will not be dispositive. Normally, the SJA will coordinate with the Senior OPLAW OCT before tasking any OCTs. The SJA will have final approval over any conflict between their rotational duties, and these ancillary legal duties.

(9) The Judge Advocate General has directed the JRTC and Fort Polk military justice section to realign IAW Military Justice Redesign (MJR) program, as laid out in TJAG Policy Memo 19-01. Under the realignment, the CoJ and MJ NCOIC will manage two teams: (1) a team of litigation attorneys whose sole responsibility is to try courts-martial; and (2) a team of military justice advisors (MJA) whose sole responsibility is to advise commanders on issues pertaining to military justice and adverse administrative actions. Judge Advocates who are litigating cases before courts-martial will retain the title of trial counsel unless they are detailed as a Special Victim Prosecutor (SVP) or General Crimes Prosecutor. At JRTC and Fort Polk, there will be two MJAs. One MJA will advise the Battalion and Company Commanders assigned to 3/10. The other MJA will advise the remaining O-6, O-5, and company commands on Fort Polk. The SVP will retain the title of SVP and the same roles and responsibilities, as will the Special Victim Prosecutor NCO. Before designating an SVP as the supervisor of trial counsel, the OSJA will coordinate with the Trial Counsel Assistance Program (TCAP). The duty titles and position descriptions will be reflected on each person's evaluation and record brief.

(10) In conjunction with the MJR transition, the CoJ will identify the officer or paralegal who is responsible for each military justice function (i.e., NJP, administrative separations or eliminations, prosecution memoranda, administrative boards, preferring charges, transmitting the charge sheet, opines (initial and final), arraignments, pre-trial matters, plea negotiations, advising law enforcement, etc.). Also, the military justice section will coordinate with affected law enforcement agencies and units, down to the company level, on new procedures.

Page 1, Chapter 1, Introduction. Add paragraph 1 - 5 and 1- 6.

1 - 5 Assistance to Investigating and Summary Court Officers. Officers appointed as investigating officers pursuant to Article 32, UCMJ, or as a Summary Courts-Martial Officer, will contact the Administrative Law Division of the Office of the Staff Judge Advocate at (337) 353 - 8342 for advice concerning their duties within 24 hours after appointment.

1 - 6 Nomination of Potential Courts-Martial Panel Members to the GCMCA. Upon request, the Special Courts Martial Convening Authorities (SPCMCA) will personally nominate Soldiers from the commands for consideration as potential courts-martial members for selection by the General Court-Martial Convening Authority (GCMCA) that, in their opinion, are best qualified pursuant to Article 25, UCMJ.

Page 2, Paragraph 2-4. Grants of immunity. Add subparagraph e.

e. The authority to issue grants or promises of immunity pursuant to Rule for Courts-Martial (R.C.M.) 704 is limited to the GCMCA, JRTC and Fort Polk. No subordinate commander will solicit evidence or information during the investigation of any offense under the UCMJ in exchange for any promise not to prosecute or promise or inducement of favorable consideration on sentence. Any request for a grant of immunity will be forwarded by the TC to the CoJ for processing to the GCMCA.

Page 4 and 5, Paragraph 3-5. Referral to superior. Add subparagraph c.

c. In those cases where the Commanding General (CG) is to impose punishment, or take action on an appeal, each subordinate commander will provide a personal recommendation to the CG through the SJA. Each case will contain sufficient information or documentation to enable the CG to make an informed disposition of the case.

Page 6, Paragraph 3-7d. Limitation of exercise of disciplinary authority by subordinates. Add subparagraphs (1) and (2).

(1) The SPCMCA or Summary Court-Martial Convening Authority (SCMCA) must inform the GCMCA and the JRTC and Fort Polk SJA via email within 24 hours of receiving any allegation of **suspected misconduct** committed by commissioned officers, warrant officers, or non-commissioned officers in the grade of E-8 and above. Email notification shall include the Soldier's full name, rank, a brief description of the allegation, the measures being taken by the immediate commander, and, if possible, the estimated date of completion of any preliminary investigation or inquiry. Special Court Martial Convening Authorities and all subordinate commanders must request delegation of authority from the GCMCA to conduct an AR 15-6 investigation or inquiry before commencing an investigation/inquiry into alleged senior leader misconduct.

(2) If the CG delegates the authority to investigate, the subordinate commander will, upon completion of the investigation or inquiry, submit a recommendation for appropriate disposition through the OSJA to the GCMCA. The recommendation will include the following: the investigative file or information concerning the alleged misconduct; the Officer Record Brief (ORB) or Enlisted Record Brief (ERB); record(s) of previous disciplinary action, if any; and, if applicable, a request for release/delegation of authority to dispose of the offense or a request for GCMCA action (i.e. request for General Officer Memorandum of Reprimand (GOMOR), etc.). Note: the CG delegating authority to a subordinate commander to investigate does not equate to disposition authority, nor does it give the subordinate commander the authority to approve any findings and recommendations.

Page 6, Paragraph 3-7. Who may impose nonjudicial punishment? Add subparagraph e.

e. Appendix A to this supplement lists all the units and their respective UCMJ alignment under the GCMCA of Commander, JRTC and Fort Polk. Appendix A will be updated as needed separately from this supplement in order to accurately reflect the most current UCMJ alignment.

Page 9, Paragraph 3-17. Formal proceedings. Add subparagraph c.

c. All charges will be reviewed by the servicing TC of the unit concerned before the Soldier is notified of the commander's intent to dispose of the matter under this chapter.

Page 12, Paragraph 3-19. Rules and Limitations. Add subparagraph c.

c. The punishment of extra-duty imposed upon Soldiers of this command shall be limited to the following periods of time, as a maximum:

(1) Personnel with normal duty hours: Duty Days – Retreat to 2359 hours. Non-Duty Days - Reveille to 2359 hours, except for normal meals and periods of worship.

(2) Shift Personnel: Duty Days - not more than 7 hours following termination of a shift or preceding the shift. Non-Duty Days - Reveille to 2359 hours, except for normal meals and periods of worship.

Page 19, Paragraph 3-32. Action by the imposing commander or the successor-in-command. Add a second paragraph.

Any appeal of an Article 15 where the imposing commander or successor-in-command does not take action, or where the imposing commander or successor-in-command takes action but the Soldier elects to appeal, will be forwarded to the superior authority for action within one duty day of submission of matters or the Soldier's election not to submit matters.

Page 24, Paragraph 4-2. Policy. Add subparagraphs a and b.

a. Soldiers who have been tried in U.S. District Court may not be tried by court-martial and generally will not be punished under Article 15, UCMJ for the same offense. Soldiers who have been tried in a State Court generally will not be tried by a court-martial or punished under Article 15, UCMJ for the same offense. Commanders desiring to pursue UCMJ action for an offense being prosecuted in the U.S. District Court, or for offenses previously tried in a State court, must coordinate through their TC with the JRTC and Fort Polk OSJA Military Justice Division.

b. Prior to preferral of court-martial charges for misconduct that occurred off-post, the TC will coordinate with local jurisdiction law enforcement organizations and/or U.S. Attorneys/district attorneys to determine whether the appropriate non-military authorities will exercise jurisdiction in the matter.

Page 26, Paragraph 5-2. Courts-martial personal jurisdiction. Add subparagraphs c and d.

c. Appendix A to this supplement lists all the units and their respective UCMJ alignment under the GCMCA of Commander, JRTC and Fort Polk.

d. Home Station Derivative Unit Identification Codes.

(1) On 8 October 2019, Commander, FORSCOM, IAW FRAGO 3 to HQDA EXORD 125-17, Army Implementation Guidance for the Department of Defense Global Force Management Data Initiative, delegated authority to unit commanders to use the Home Station (HS) Derivative Unit Identity Codes (DUIC) to establish rear and forward detachments. Accordingly, units will no longer be required to submit official requests to Headquarters, FORSCOM, to establish rear and forward detachments.

(2) Fort Polk-based units will coordinate provisional unit establishment with the OSJA. Generally, units will use an assumption of command memorandum, their HS DUIC, and appropriate permanent orders to establish rear/forward detachments. An assumption of command memorandum provides sufficient command authority for the rear detachment commander to execute all command functions detailed in AR 600-20, Army Command Policy, as well as UCMJ authority. All proposed rear/forward detachment arrangements must receive a legal review prior to implementation. Note: Despite the authority to create provisional units, forward and rear units are separate entities with distinct commanders. Under no circumstance should a forward commander try to impose or influence military justice actions belonging to its rear element.

e. Forward deployed units will use assumption of command orders and the parent unit UIC, and DUICS registered under the DRRS-A for deployed elements. Assumption of command orders provide sufficient command authority for the forward detachment commander to execute all command functions detailed in AR 600-20, Army Command Policy, and authority under the Uniform Code of Military Justice. No additional request to FORSCOM for provisional unit status is necessary.

Page 26, Paragraph 5-5. Detailing of counsel and reporters. Add subparagraph d and e.

d. In accordance with **TJAG Policy Memorandum 17-06**, the SVP supporting JRTC and Fort Polk will be detailed to all courts-martial for any alleged violations of Article 117a, Article 120, Article 120b, Article 120c, Article 125, all family violence cases, and cases involving attempts to commit any of these offenses, unless the SJA determines,

with SVP advice, that other detailed TC are sufficiently proficient to effectively prosecute a particular case.

e. Court reporters will not be detailed to an Article 32, UCMJ, preliminary hearing for a verbatim transcript without the express permission of the SJA.

Page 29, Paragraph 5-10. Professional standards. Add subparagraphs d and e.

d. In accordance with **TJAG Policy Memorandum 17-01**, all judge advocates assigned to JRTC and Fort Polk will receive annual training on the Army Rules of Professional Conduct for Lawyers (AR 27-26), state bar rules, and other applicable ethical standards. Each judge advocate will receive at least three hours of professional responsibility training each year.

e. In accordance with **TJAG Policy Memorandum 17-01**, all paralegal specialists/NCOs, court reporters, legal administrators, and legal interns assigned or attached to JRTC and Fort Polk will receive at least one hour of professional responsibility training each year.

Page 30, Add Paragraph 5-14. Support for courts-martial.

a. Bailiff. The accused's Company/Battery/Troop commander will provide two bailiffs for each day that the trial is in session and for all Article 39(a) sessions. For court-martial proceedings with panel members present, two bailiffs are required. Bailiffs will not be witnesses to the court-martial, nor will they act as a unit escort or guard for the accused. A bailiff should neither have an interest in the case nor a close association with the accused or a victim of a charged offense. In cases of an enlisted accused, the bailiff will ordinarily be an NCO senior to the accused. In cases of an officer accused, the bailiff will ordinarily be an officer senior to the accused, if reasonably available. If not reasonably available, the bailiff will be an NCO in the grade of E-7 or above. Trial Counsel will brief the bailiffs as to their duties in accordance with Appendix D of the Rules of Practice Before Army Courts-Martial.

b. Paralegals. At least one paralegal from the OSJA or Brigade legal office will be present in or around the courtroom area at all times during any court-martial proceeding. Paralegals are responsible for cleaning the courtroom at the end of every court day. Additionally, paralegals are responsible for providing the escort team with the proper post-trial paperwork for the confinement facility, if required. Trial Counsel will not depart the courthouse until witnesses and Defense personnel, including the accused, have departed the courthouse.

c. Escorts. The accused's Company/Battery/Troop commander is responsible for ensuring that the accused is present at all court-martial proceedings (including arraignments and Article 39(a) sessions). The commander will provide two escorts (E-5 or above and senior in grade to the accused), a licensed driver, and a dispatched

non-tactical government vehicle for all court-martial proceedings. At least one escort will be in the courtroom during all court-martial proceedings; at no time will shackles or any other restraint devices be brought into the courtroom. If confinement is imposed, escorts will be responsible for transporting the accused to the temporary holding cell and the assigned confinement facility at the end of court-martial proceedings.

d. Personal Property of the Accused. The accused's Company/Battery/Troop commander is responsible for ensuring that the accused has received a copy of the confinement packing list and has all items required by the confinement facility in the event confinement is ordered. The accused's commander is also responsible for ensuring that the accused's other personal property is inventoried and secured during any period of confinement.

e. Uniform and Meals. The accused's Company/Battery/Troop commander is responsible for ensuring that the accused is present at all court-martial proceedings (including arraignments and Article 39(a) sessions) on time and in the appropriate uniform. Commanders should seek guidance from the TC regarding uniform requirements. The accused's commander is also responsible for ensuring that arrangements are made for the accused's meals during any court proceedings.

f. Court Security. The TC is responsible for ensuring that military police or other security support is available at the courthouse upon direction of the military judge. The MPs will provide this support when requested by the TC or as required by the military judge.

g. Duties of Accused and Court Personnel during Courts-Martial. The place of duty for the accused and personnel appointed to support a court-martial (bailiffs, escorts, and panel members) during a court-martial is at the court-martial for its complete duration. Commanders will not assign additional unrelated duties (e.g. staff duty, gate guard) to the accused, bailiffs or escorts during the pendency of the court-martial as such duties may interfere with the performance of court-martial duties.

Page 30, Paragraph 5-14. Reports of offenses. Add subparagraph d and e.

d. Any commander who receives a report of sexual misconduct offenses in violation of Article 117a, Article 120, Article 120b, Article 120c, or Article 125, UCMJ, or any attempts of any of these offenses, will immediately refer this report to the supporting TC and to the military criminal investigation organization with investigative responsibility over the offense (as specified in AR 195-2, Appendix B). **Commanders will not conduct a preliminary inquiry/investigation IAW AR 15-6 or an R.C.M. 303 preliminary inquiry prior to referring the report to the appropriate military criminal investigation organization under whose investigatory purview these offenses fall.**

e. A Soldier pending an investigation with a view toward trial by court-martial who is within thirty days of his or her ETS date will have his or her ETS date extended by thirty

days in accordance with AR 635-200, paragraph 1-22. After this initial thirty-day extension by the Company Commander, the supporting TC will coordinate with the OSJA, Military Justice Division, to process an additional extension by this GCMCA.

Page 33, Paragraph 5-21. Pretrial confinement. Add subparagraphs e through i.

e. No person subject to the general court-martial jurisdiction of the Commander, JRTC and Fort Polk, may be placed into pretrial confinement without the concurrence of the SJA or acting SJA. This coordination will be accomplished by the servicing TC in conjunction with the CoJ. In no case will pretrial confinement be approved where the commander intends on disposition less than a special court-martial (SPCM).

f. Commanders ordering pretrial confinement in accordance with R.C.M. 305 will provide the servicing TC with all evidence of the alleged offenses. The servicing TC will provide assistance and guidance to the commander on pretrial confinement procedures and will assist the commander in completing the required pretrial confinement documents, including a DA Form 5112, Checklist for Pretrial Confinement, to include

- (1) Why the commander believes the accused committed the offense;
- (2) Why confinement is necessary to ensure the accuser's presence at trial; or
- (3) How confinement will prevent further serious misconduct by the accused; and
- (4) Why restriction or other less severe forms of restraint are insufficient.

g. Commanders are responsible for the safety, welfare and morale of any Soldier under their command who is in pretrial confinement. Accordingly, commanders must maintain contact with Soldiers in pretrial confinement (military or civilian) at least once per week.

(1) Company/Troop/Battery Commanders must personally visit Soldiers placed in military pretrial confinement during the first thirty days of confinement. A member of the chain of command (Commanders, First Sergeants, Executive Officers, or other members of the chain of command or supervision) must personally visit the Soldier at least once per month thereafter. In addition, Commanders will contact the Soldier by telephone at least once per week for the entire period of pretrial confinement.

(2) Company/Troop/Battery Commanders with Soldiers in local, civilian pretrial confinement must visit the Soldier at least once during the first thirty days of confinement. Thereafter, a member of the chain of command (Commanders, First Sergeants or Executive Officers, or other members of the chain of command or supervision) must telephonically contact the Soldier at least once per week.

(3) Company/Troop/Battery Commanders with Soldiers in nonlocal civilian pretrial confinement must telephonically contact the Soldier at least once during the first thirty days of confinement. A member of the chain of command (Commanders, First Sergeants or Executive Officers, or other members of the chain of command or supervision) must continue to telephonically contact the Soldier at least once per week thereafter.

h. A commander who places an accused in the status of arrest in quarters or restriction in any form pending charges will immediately notify the trial counsel. The notification will include: (1) the date restriction was imposed, and (2) the conditions of the restriction.

i. Commanders imposing any type of pretrial restraint in accordance with R.C.M. 304 (including conditions on liberty) must coordinate with their servicing TC before taking such action. Imposition of any pretrial restraint or conditions on liberty (revocation of pass privileges, restriction, or arrest in quarters) imposed by a commander will be in writing and commanders must deliver/email a copy of that writing to the servicing TC within 24 hours. If a commander imposes any pass revocation, restriction, or arrest in quarters orally, or through a subordinate, the commander will issue a written order as soon as practicable, but not to exceed 48 hours from the time the order is issued.

j. Guards. At least two guards will be assigned from the parent unit for each pretrial or post-trial prisoner to be transported. Guards will be mature, responsible individuals, with no record of adverse incidents or personal friendship or involvement with the accused. They must be physically capable of restraining the prisoner. The senior guard will be a non-commissioned officer, and both guards will be senior in rank to the accused. At a minimum, one of the guards will be the same sex as the accused. If the accused is an officer, at least one of the guards will be an officer senior to the accused. Guards are responsible for maintaining control of the accused at all times to include in the courtroom during trial, at the defense counsel's office, or in the latrine. The guards, however, will neither intrude upon the attorney-client relationship, nor the confidentiality expected between defense counsel and client.

k. Escorts for an accused. An accused not in pretrial confinement will be accompanied by two escorts enroute to the courtroom on the day of trial. Escorts will meet the qualifications for guards established in subparagraph i above, since they will immediately assume the duties of guards if an accused is sentenced to confinement. A Soldier is deemed to be in post-trial confinement at the moment the military judge or president of the court announces a sentence that includes confinement.

l. The unit commander will be notified by the unit TC of the requirement and suspense to provide escorts/guards, to include the requirement for a briefing by the JRTC and Fort Polk Military Justice section prior to the scheduled trial date.

Page 34, Paragraph 5-22. Preparation of charge sheet. Add subparagraphs c through f.

c. Absent exigent circumstances, charges will not be preferred against any Soldier unless the charges and specifications have been reviewed by the STC and CoJ as to form and evidentiary basis. Charges in any cases involving misconduct offenses in violation of Article 117a, Article 120, Article 120b, Article 120c, Article 125, all family violence offenses, or any attempts of any of these offenses, will also be reviewed by the SVP supporting JRTC and Fort Polk before preferral.

d. Upon preferral of charges, the TC will confirm that all victims eligible for representation by a special victim counsel (SVC) have been informed of their entitlement to representation. Victims should have already been notified of their right to speak to an SVC by the SARC in accordance with AR 27-10, paragraph 17-10.

e. Before the preferral of charges, the CoJ, or his designee, will coordinate with the Chief, Administrative Law, or his designee, to detail a judge advocate to serve as the Article 32, UMCJ, Preliminary Hearing Officer (PHO).

f. Charges should ordinarily be preferred before or concurrently as a Soldier is placed in pretrial confinement or restriction tantamount to confinement. If a Soldier is confined or restricted prior to preferral, the commander must prefer charges as soon as practicable, subject to paragraph c. above.

Page 34, Paragraph 5-24. Forwarding of charges and requests for pretrial delay. Add subparagraphs d through i.

d. All commanders are responsible for ensuring the expeditious administration of military justice.

e. If a Company/Battery/Troop commander receives charges on a DD Form 458 from an accuser outside of the command, and determines that a court-martial is not appropriate, the Company/Battery/Troop commander will forward the charges, with an appropriate recommendation, through the servicing TC and CoJ to the GCMCA for review and final action.

f. If it appears that trial by general court-martial is warranted, the SPCMCA over the accused will, in coordination with their servicing TC, appoint in writing a qualified officer to conduct a preliminary hearing under the provisions of Article 32, UCMJ, and R.C.M. 405. The appointed officer, whenever practicable, will be a judge advocate equal to or greater in grade to the counsel representing the parties in the case. [All impartial judge advocates within this GCMCA are eligible to be Article 32 PHOs, unless precluded by the SJA.]

g. When the appointment of a judge advocate as the PHO is not practicable, or in exceptional circumstances in which the interest of justice warrants, the convening authority directing the hearing may detail an impartial commissioned officer who is not the accuser and who is equal to or greater in grade to counsel representing the parties in the case, as the PHO. If the PHO is not a judge advocate, an impartial judge advocate will be available to provide legal advice to the PHO. The PHO must contact the Administrative Law Division of the OSJA or his or her servicing judge advocate for advice concerning his or her duties within 24 hours of appointment.

h. If it appears that trial by general court-martial is warranted in any case involving sexual misconduct offenses in violation of Article 117a, Article 120, Article 120b, Article 120c, or Article 125, UCMJ, or any attempts of any of these offenses, the Article 32 PHO must be a judge advocate, without exception. The SPCMCA will work through his or her trial counsel, in conjunction with the Administrative Law Division of the OSJA to identify an appropriate judge advocate to serve as the PHO.

i. When an officer is designated to conduct an Article 32, UCMJ preliminary hearing, the hearing is his or her principal duty until the hearing is completed. Article 32 PHOs will follow Department of the Army Pamphlet 27-17 to the extent possible.

Page 34, Paragraph 5-25. Authorization for payment of transportation expenses and allowances to civilian witnesses appearing before Article 32, UCMJ, preliminary hearings. Add subparagraph c.

c. The GCMCA delegates to the SJA the authority to approve, but not disapprove, the payment of transportation expenses and allowances for civilian witnesses appearing before Article 32, UCMJ, preliminary hearings.

Page 36, Paragraph 5-28. Referral of charges. Add subparagraph c - e.

c. The authority to refer cases to a SPCM is withheld to the GCMCA.

d. Convening authorities subordinate to the GCMCA of the CG, JRTC and Fort Polk, are as indicated in Appendix A to this supplement.

e. The CG, JRTC and Fort Polk, delegates to the SJA, DSJA, and CoJ, the authority to sign and execute block 14 of DD Form 1458 referral action.

f. Subpoenas will be served on all civilian witnesses whose production is required at any court-martial proceedings (including Article 39(a) sessions) in accordance with R.C.M. 703(b) or by order of a military judge.

Page 39, Paragraph 5-33. Procedure for summary courts-martial. Add subparagraphs f and g.

f. Officers appointed as summary courts-martial (SCM) officers will contact the Administrative Law Division of the OSJA or their servicing judge advocate for advice concerning their duties within 24 hours of appointment.

g. When an officer is designated to conduct a SCM, the SCM is his or her principal duty until the proceeding is completed. When appointing SCM officers, commanders should ensure that the appointed officer is available and able to complete the proceedings as expeditiously as possible.

Page 43, Paragraph 5-45. Convening authority clemency action. Add subparagraph e.

e. The authority to sign the DD Form 2707 Confinement Order directing post-trial confinement of a Soldier pursuant to a court-martial is delegated to the TC, BJA, CoJ, DSJA, or SJA. The CoJ, DSJA, or SJA may conduct the required legal review and approval in block 8 of the DD Form 2707.

Page 88, Paragraph 17-14. Notification and description of services provided to victims of crime. Add subparagraph c.

c. In accordance with **TJAG Policy Memorandum 17-08**, and to ensure that the rights of crime victims are safeguarded, the TC will provide all victims and their SVC, if applicable, with the following information without request by the victim. Upon preferral of charges, the victim will be provided a copy of all statements and documentary evidence produced or provided by the victim; an excerpt of the charge sheet setting forth the preferred specifications pertaining to that victim; and the date, time, and location of any pretrial confinement review pursuant to R.C.M. 305, and the preliminary hearing pursuant to Article 32, UCMJ. Upon receipt or filing by the government, the victim will be provided with a summarized transcript of the victim's testimony at the preliminary hearing; an excerpt of the charge sheet setting forth the referred specifications pertaining to that victim; any docket requests or scheduling orders, including deadlines for filing motions and the date, time, and location for any session of trial; a copy of any motion or responsive pleadings that may limit a victim's privileged communications or private medical information or involve the victim's right to be heard; and any request to interview the victim received from defense counsel.

Page 92, Paragraph 18-5. Required military justice training for commissioned officers, officer candidates, and cadets. Add subparagraph d.

d. All military justice training courses attended by trial counsel requiring monetary funding will be funded primarily through OSJA budgetary resources. If the OSJA

budgetary resources cannot fund the training, the parent unit of the TC will provide the funding necessary for course attendance.

Page 98, Paragraph 19-9. Action by the person receiving the complaint.

Add subparagraph d.

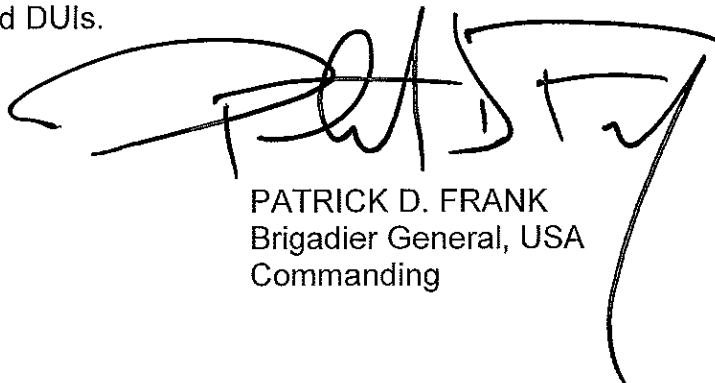
d. Any commissioned officer who receives a request for redress under the provisions of Article 138, UCMJ, or an Article 138 complaint shall contact the Administrative Law Division of the OSJA within 24 hours to receive a brief on the proper actions and procedures to respond to the complaint.

Page 107, Paragraph 23-5, Misdemeanors. Add subparagraph g.

g. The Federal Magistrate Court and Fort Polk. In coordination with the United States Attorney's Office for the Western District of Louisiana and the Chief Judge for the Western District of Louisiana, the Fort Polk Magistrate Court adjudicates all misdemeanor traffic violations, to include Driving Under the Influence (DUI), and any hunting and fishing violations occurring on Fort Polk Military Reservation. In practice, Soldiers that receive citations for such offenses will be handled as follows:

(1) To ensure impartial judicial determination, more uniform disposition, effective law enforcement across the community, and in implementation of Department of Defense Instruction 6055.4, dated 2 April 2010, commanders will not impose nonjudicial punishment, or prefer charges under the UCMJ, for on post traffic offenses, including DUI offenses, without prior approval of the Commanding General, JRTC and Fort Polk. Requests to the Commanding General to take such action must originate with the Soldier's SPCMCA, and be forwarded through the Office of the Staff Judge Advocate, JRTC and Fort Polk. Soldiers have 14 calendar days from the date of the offense to submit a request to their SPCMCA.

(2) Commanders will not impose NJP or prefer charges under the UCMJ for off post misconduct over which a civilian agency has asserted criminal jurisdiction without first coordinating with the unit TC and the CoJ, JRTC and Fort Polk. This includes all traffic related offenses and DUIs.



PATRICK D. FRANK
Brigadier General, USA
Commanding